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AMERICANWEST BANCORPORATION

10

11 UNITED STATES BANKRUPTCY COURT
12 EASTERN DISTRICT OF WASHINGTON

13

14 In re
15 AMERICANWEST
BANCORPORATION,
16 Debtor.

Case No. 10-06097-PCW11
Chapter 11

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**ORDER (i) AUTHORIZING AND
APPROVING THE SALE OF
CERTAIN ASSETS FREE AND
CLEAR OF ALL
ENCUMBRANCES,
(ii) AUTHORIZING AND
APPROVING THE ASSUMPTION
AND ASSIGNMENT OF
CERTAIN EXECUTORY
CONTRACTS, AND
(iii) WAIVING THE 14-DAY
STAY OF FED. R. BANKR. P.
6004(h) AND 6006(d)**

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CLEAR OF ENCUMBRANCES, (ii) AUTHORIZING AND APPROVING THE
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS, AND
(iii) WAIVING THE 14-DAY STAY-

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1 This matter having come before this Court on the motion of
2 AmericanWest Bancorporation (“AWBC”)¹ for Orders Pursuant to §§ 105(a),
3 363(b), and 365 of Chapter 11 of Title 11 of the United States Code, 11 U.S.C.
4 §§ 101, *et. seq.* (the “Bankruptcy Code”); Rules 2002, 6004, 6006, and 9014 of
5 the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”); and Rule
6 6004-1 of the Local Rules for the United States Bankruptcy Court of the
7 Eastern District of Washington (the “Local Rules”) (I) Approving (A) Bidding
8 Procedures, (B) Bidding Protections, and (C) the Form and Manner of the
9 Notice of Sale and the Assignment Notice; (II) Authorizing and Approving
10 (A) the Sale of Certain Assets Free and Clear of All Encumbrances and (B) the
11 Assumption and Assignment of Certain Executory Contracts; and (III) Waiving
12 the 14-Day Stay of Bankruptcy Rules 6004(h) and 6006(d) (the “Sale Motion”);
13 and this Court having conducted a hearing on December 9, 2010 and having
14 entered orders dated (i) November 3, 2010 approving the Interim Bidding
15 Procedures [Docket No. 64]; and (ii) November 18, 2010 approving the Final
16 Bidding Procedures [Docket No. 131]; and no Auction having been held due to
17 the absence of any competing bids, in accordance with the Interim and Final
18 Bidding Procedures previously approved by this Court; and AWBC, in

¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion (as defined below) or that certain asset purchase agreement (the “Prevailing APA”), dated as of October 27, 2010 by and between AWBC and SKBHC Hawks Nest Acquisition Corp. (the “Purchaser”), as appropriate. All references herein to the “Successful Bidder” shall refer to the Purchaser.

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1 consultation with its financial advisors, its legal advisors, and the official
2 committee of unsecured creditors (the “Committee”) established in this Chapter
3 11 case, having identified the Purchaser as the Successful Bidder (as defined in
4 the Bidding Procedures); and the Sale Hearing having been held on December
5 9, 2010, at which time this Court considered AWBC’s request for the entry of
6 an order approving the Sale (the “Sale Order”); and all interested parties having
7 been afforded an opportunity to be heard with respect to the Sale Motion; and
8 this Court having reviewed and considered (i) the Sale Motion; (ii) the
9 objections thereto, if any; (iii) the arguments made by counsel; and (iv) the
10 evidence proffered or adduced at the Sale Hearing; and it appearing that
11 granting the relief requested in the Sale Motion, approval of the Sale, and the
12 entry of this Sale Order are necessary and in the best interests of AWBC, its
13 estate, creditors, and other parties in interest; and it appearing that the Notice of
14 Sale has been given as set forth in the Sale Motion and that no other or further
15 notice need be given regarding the entry of this Sale Order; and upon the record
16 of the Sale Hearing, and this case; and after due deliberation thereon; and good
17 cause appearing therefor, it is hereby

18 **FOUND AND DETERMINED AS FOLLOWS:**

19 A. This Court has jurisdiction over the Sale Motion and the
20 transactions contemplated by the Sale Motion pursuant to 28 U.S.C §§ 157 and
21 1334. This matter is a core proceeding pursuant to 28 U.S.C § 157(b)(2)(N).
22 Venue of this case and the Sale Motion is proper pursuant to 28 U.S.C §§ 1408
23 and 1409.

24 B. The statutory predicates for the relief sought in the Sale Motion are
25 sections 105, 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002,
26 6004, 6006, and 9014.

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1 C. As evidenced by the affidavits of service previously filed with this
2 Court, and based on the representations of counsel at the Sale Hearing,
3 (i) proper, timely, adequate, and sufficient notice of the Sale and of the
4 assumption and assignment of the 365 Contracts has been provided in
5 accordance with sections 102(1), 363, and 365 of the Bankruptcy Code,
6 Bankruptcy Rules 2002, 6004, 6006 and 9014, and Local Rule 6004-1; (ii) such
7 notice was reasonable, sufficient, and appropriate under the circumstances; and
8 (iii) no other or further notice of the Sale or of the assumption and assignment
9 of the 365 Contracts shall be required.

10 D. A reasonable opportunity to object or be heard with respect to the
11 Sale Motion and the relief requested in the Sale Motion has been afforded to all
12 interested persons and entities, including without limitation: (i) all entities
13 known to have expressed an interest in a transaction with respect to AWBC, the
14 Bank or the Shares and the Other Purchased Assets (or a portion thereof);
15 (ii) any entities known to have asserted any Encumbrance in or upon the Shares
16 or the Other Purchased Assets; (iii) all federal, state, and local regulatory or
17 taxing authorities or recording offices which have a reasonably known interest
18 in the relief requested by the Motion, including the FDIC and the DFI; (iv) all
19 parties to the Prevailing APA and all related agreements; (v) the Office of the
20 United States Trustee; (vi) the Securities and Exchange Commission; (vii) the
21 Internal Revenue Service; (viii) Wilmington Trust Company; (ix) U.S. Bank;
22 (x) Preferred Trust Securities, Ltd. VII; (xi) Preferred Trust Securities, Ltd. X;
23 (xii) Preferred Trust Securities, Ltd. XXII; (xiii) Preferred Trust Securities, Ltd.
24 XXV; (xiv) Bank of New York Mellon; (xv) all entities that have requested
25 notice in accordance with Bankruptcy Rule 2002; (xvii) all other known
26 creditors of AWBC; and (xviii) counsel to the Committee.

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1 E. AWBC and the Successful Bidder (i) have full corporate power
2 and authority to execute the Prevailing APA and all other documents
3 contemplated by the Sale Motion; (ii) have all of the corporate power and
4 authority necessary to consummate the transactions contemplated by the Sale
5 Motion and the Prevailing APA; and (iii) have taken all corporate action
6 necessary to authorize and approve the Sale and the consummation by AWBC
7 and the Successful Bidder, respectively, of the transactions contemplated
8 thereby. AWBC is the sole and lawful owner of the Shares and the Other
9 Purchased Assets to be sold pursuant to the Prevailing APA.

10 F. The Successful Bidder is a third-party purchaser unrelated to
11 AWBC or the Bank.

12 G. The Shares and the Other Purchased Assets are property of
13 AWBC's estate.

14 H. AWBC has demonstrated sound business justifications, pursuant to
15 section 363(b) of the Bankruptcy Code, with respect to the Sale and other
16 transactions contemplated by the Sale Motion on the timeline set forth therein,
17 including among other things:

18 (1) To maximize the value of the Shares and Other Purchased
19 Assets, a Sale must be accomplished within the time constraints set forth in the
20 Prevailing APA, the Final Bid Procedures Order, and the Bidding Procedures
21 because the value of the Shares and Other Purchased Assets will dissipate
22 should the Bank become seized by the regulatory authorities;

23 (2) Claims against AWBC's estate will be minimized as a result
24 of the prompt consummation of a Sale of the Shares and Other Purchased
25 Assets. The Successful Bidder will be assuming certain 365 Contracts. To the

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1 extent that the Successful Bidder assumes the 365 Contracts, the counterparties
2 to such contracts will have no further recourse against AWBC or its estate; and

3 (3) The Sale does not constitute a de facto plan of
4 reorganization or liquidation or an element of such a plan for AWBC, as it does
5 not and does not propose to: (i) impair or restructure existing debt of, or equity
6 interests in, AWBC; (ii) impair or circumvent voting rights with respect to any
7 future plan proposed by AWBC; (iii) circumvent Chapter 11 plan safeguards,
8 such as those set forth in sections 1125 and 1129 of the Bankruptcy Code; or
9 (iv) classify claims or equity interests, compromise controversies or extend debt
10 maturities.

11 I. The terms and conditions of the Sale as set forth in the Prevailing
12 APA were negotiated, proposed, and agreed to by AWBC and the Successful
13 Bidder as parties thereto without collusion, in good faith, and from arm's-length
14 bargaining positions. AWBC has followed in good faith the procedures for
15 notice and Sale as set forth in the Bidding Procedures Order. The Successful
16 Bidder is not an "insider" or "affiliate" of AWBC (as each such term is defined
17 in the Bankruptcy Code). Neither AWBC nor the Successful Bidder have
18 engaged in any conduct that would prevent the application of section 363(m) of
19 the Bankruptcy Code to the Sale and the transactions contemplated by the
20 Prevailing APA. Specifically, the Successful Bidder has not acted in a
21 collusive manner with any person and the consideration provided by the
22 Successful Bidder for the Shares and Other Purchased Assets was not controlled
23 by any agreement among the Successful Bidder and the other potential bidders.
24 The Successful Bidder is entitled to the protections afforded under section
25 363(m) of the Bankruptcy Code because the Successful Bidder is a good faith
26 purchaser in that, inter alia: (a) the Successful Bidder recognized that AWBC

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1 was free to deal with any other party interested in acquiring the Shares and
2 Other Purchased Assets; (b) the Successful Bidder complied with the provisions
3 of the Bidding Procedures Order; (c) the Successful Bidder agreed to subject its
4 bid to the competitive bidding procedures set forth in the Bidding Procedures
5 Order; (d) the Successful Bidder in no way induced or caused the Chapter 11
6 filing by AWBC; (e) all payments to be made by the Successful Bidder in
7 connection with the Sale have been disclosed; (f) no common identity of
8 directors or controlling stockholders exists between the Successful Bidder and
9 AWBC; and (g) the negotiation and execution of the Prevailing APA was at
10 arm's length and in good faith.

11 J. Neither the Successful Bidder nor AWBC has engaged in any
12 conduct that would cause or permit the Prevailing APA to be voided under
13 section 363(n) of the Bankruptcy Code.

14 K. The consideration provided by the Successful Bidder for the
15 Shares and the Other Purchased Assets (i) is fair and reasonable; (ii) is the
16 highest or otherwise best offer for the Shares and the Other Purchased Assets;
17 (iii) constitutes fair consideration and reasonably equivalent value (as those
18 terms are defined in each of the Uniform Fraudulent Transfer Act, Uniform
19 Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the
20 Bankruptcy Code and under the laws of the United States, any state, territory,
21 possession or the District of Columbia; and (iv) will provide a greater recovery
22 for AWBC's creditors and other interested parties than would be provided by
23 any other practically available alternative.

24 L. The transfer of the Shares and the Other Purchased Assets to the
25 Successful Bidder pursuant to the Sale and the Prevailing APA will be a legal,
26 valid, and effective transfer of the Shares and the Other Purchased Assets and

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1 will, upon the occurrence of the Closing, vest in the Successful Bidder all
2 rights, title, and interest of AWBC in the Shares and the Other Purchased
3 Assets, free and clear of any and all Encumbrances (other than Permitted Liens,
4 with respect to the Other Purchased Assets). Except as specifically provided in
5 the Prevailing APA or this Sale Order, the Successful Bidder shall not assume
6 or become liable for any interests in or relating to the Shares and the Other
7 Purchased Assets being sold by AWBC.

8 M. AWBC has articulated good cause for waiver of Rules 6004(h) and
9 6006(d) of the Federal Rules of Bankruptcy Procedure under the circumstances,
10 including, but not limited to, the following: (i) absent a sale of the Shares and
11 the Other Purchased Assets to the Successful Bidder, and concurrent
12 recapitalization of the Bank by the Successful Bidder, the Bank will fail to meet
13 the regulatory capital requirements and will be subject to immediate seizure by
14 the DFI and the FDIC; and (ii) the Successful Bidder has already been approved
15 by the Regulators as purchaser of the Bank.

16 N. AWBC has articulated sound business reasons for performing the
17 Prevailing APA, consummating the Sale, and assuming and assigning the 365
18 Contracts as set forth in the Sale Motion outside of a plan of reorganization, and
19 it is a reasonable exercise of AWBC's business judgment to execute, deliver,
20 and consummate the Prevailing APA and the transactions contemplated
21 thereby.

22 O. AWBC may sell the Shares and the Other Purchased Assets free
23 and clear of all Encumbrances (other than Permitted Liens, with respect to the
24 Other Purchased Assets) because one or more of the standards set forth in
25 section 363(f) of the Bankruptcy Code has been satisfied.

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1 P. Pursuant to the Prevailing APA, prior to the expiration of the
2 regular term of the Company D&O Policy, the Successful Bidder may pay
3 directly to the insurer the premium required to purchase extended reporting
4 period coverage for an additional year under such policy.

5 Q. The terms and conditions of the Sale and the Prevailing APA,
6 including the total consideration to be realized by AWBC pursuant to the
7 Prevailing APA, are fair and reasonable, and the transactions contemplated by
8 the Prevailing APA are in the best interests of AWBC, its creditors, and its
9 estate. A valid business purpose exists for the approval of the Sale and other
10 transactions contemplated by the Sale Motion.

11 R. The requirements of sections 363(b), 363(f), and 365 of the
12 Bankruptcy Code and any other applicable law relating to the sale of the Shares
13 and the Other Purchased Assets have been satisfied.

14 S. A reasonable opportunity has been afforded to all interested parties
15 to make a higher or better offer to purchase the Shares and the Other Purchased
16 Assets.

17 T. Approval at this time of the Sale, the Prevailing APA, and all the
18 transactions contemplated thereby and hereby is in the best interests of AWBC,
19 its creditors, its estate, and other parties in interest.

20 U. The Successful Bidder has the financial capability to fulfill the
21 obligations contemplated under the Prevailing APA and the financial
22 wherewithal to meet all of its future financial obligations pursuant to the terms
23 of the 365 Contracts.

24 V. Neither the Successful Bidder nor its affiliates shall be deemed, as
25 a result of any action taken in connection with the purchase of the Shares or
26 Other Purchased Assets, to: (1) be a successor (or other such similarly situated

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1 party) to AWBC (other than with respect to the 365 Contracts as expressly
2 stated in the Prevailing APA); (2) have, de facto or otherwise, merged with or
3 into AWBC; (3) be a mere continuation of AWBC or its estate (and there is no
4 continuity of enterprise between the Successful Bidder and AWBC); or (4) be
5 holding itself out to the public as a continuation of AWBC. The Successful
6 Bidder is not acquiring or assuming any liability, warranty, or other obligation
7 of AWBC, except as expressly set forth in the Prevailing APA.

8 W. This Sale Order constitutes a final and nonappealable order within
9 the meaning of 28 U.S.C. § 158(a). *(PPW)*

10 X. Time is of the essence in consummating the Sale. Notwithstanding
11 Bankruptcy Rules 6004(h) and 6006(d), this Court expressly finds that there is
12 no just reason for delay in the implementation of this Sale Order, and expressly
13 directs entry of judgment as set forth herein.

14 Y. This Court takes judicial notice of the following statistic in the
15 Sale Motion:

16 (1) Twenty-five banks failed and were taken over by the FDIC
17 in 2008, while 140 failed in 2009. Over 150 banks have failed thus far in 2010.

18 NOW THEREFORE, BASED UPON THE FOREGOING FINDINGS OF
19 FACT, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, EFFECTIVE
20 IMMEDIATELY, THAT:

21 1. The Sale Motion is granted.
22 2. The Prevailing APA substantially in the form attached to the Sale
Motion (including all exhibits, schedules and annexes thereto), and all of the terms
23 and conditions thereof, are hereby approved. Pursuant to section 363(b) of the
24 Bankruptcy Code, AWBC is authorized to consummate the Sale pursuant to and in
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1 accordance with the terms and conditions of the Prevailing APA, without any
2 further corporate authorization.

3 3. The Successful Bidder is authorized to consummate the Sale pursuant
4 to and in accordance with the terms and conditions of the Prevailing APA.

5 4. AWBC is authorized to execute and deliver, and is empowered to
6 perform under, consummate and implement, the Prevailing APA, together with all
7 additional instruments and documents that may be reasonably necessary or desirable
8 to implement the Prevailing APA, and to take all further actions as may be
9 requested by the Successful Bidder for the purpose of assigning, transferring,
10 granting, conveying, and conferring to the Successful Bidder, the Shares and the
11 Other Purchased Assets, or as may be necessary or appropriate to the performance
12 of the obligations as contemplated by the Prevailing APA.

13 5. Pursuant to Bankruptcy Code sections 105 and 363, title to the Shares
14 and the Other Purchased Assets shall pass to the Successful Bidder at Closing, free
15 and clear of all Encumbrances (other than Permitted Liens, with respect to the Other
16 Purchased Assets), with all Encumbrances to be unconditionally released,
17 discharged, and terminated as to the Shares and the Other Purchased Assets.

18 6. Except as expressly permitted or otherwise specifically provided for in
19 the Prevailing APA or this Sale Order, effective upon the consummation of the
20 Closing (i) all persons and entities, including, but not limited to, all debt security
21 holders, equity security holders, Bank officers and directors, Bank employees,
22 governmental, tax and other regulatory authorities, lenders, trade and other creditors
23 holding Encumbrances of any kind or nature whatsoever against or in AWBC or the
24 Shares and the Other Purchased Assets (whether legal or equitable, secured or
25 unsecured, matured or unmatured, contingent or non-contingent, liquidated or
26 unliquidated, senior or subordinated), arising under or out of, in connection with, or

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1 in any way relating to, AWBC, the Shares and the Other Purchased Assets, the Sale,
2 or the transfer of the Shares and the Other Purchased Assets to the Successful
3 Bidder, hereby are forever barred and estopped from asserting against the
4 Successful Bidder, its successors or assigns (to the extent allowed by law), its
5 property, its officers, directors and shareholders or the Shares and the Other
6 Purchased Assets any actions, including but not limited to, such persons' or entities'
7 Encumbrances; and (ii) all such Encumbrances shall be unconditionally released
8 and terminated as to the Shares and the Other Purchased Assets. All such
9 Encumbrances released, terminated and discharged as to the Shares and Other
10 Purchased Assets shall attach to the Sale proceeds with the same validity, force and
11 effect which they now have as against AWBC, the estate, or the Shares and Other
12 Purchased Assets. The sole and exclusive right and remedy available to holders of
13 any Encumbrances shall be a right to assert the Encumbrance against AWBC's
14 estate.

15 7. The transfer of the Shares and the Other Purchased Assets to the
16 Successful Bidder pursuant to, and subject to the terms of, the Prevailing APA shall
17 constitute a legal, valid, and effective transfer of the Shares and the Other Purchased
18 Assets, and shall, upon the consummation of the Closing, vest in the Successful
19 Bidder all right, title, and interest of AWBC in and to the Shares and the Other
20 Purchased Assets, free and clear of all Encumbrances (other than Permitted Liens,
21 with respect to the Other Purchased Assets).

22 8. The Successful Bidder shall not be required to seek or obtain relief
23 from the automatic stay under section 362 of the Bankruptcy Code to enforce any of
24 its remedies under the Prevailing APA or any other Sale-related document. The
25 automatic stay imposed by section 362 of the Bankruptcy Code is modified to the
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1 extent necessary to implement the preceding sentence and the other provisions of
2 this Sale Order.

3 9. The Successful Bidder shall have no obligation to proceed with the
4 Closing until all conditions precedent in the Prevailing APA to its obligation to do
5 so have been met, satisfied or waived in accordance with the terms of the Prevailing
6 APA.

7 10. AWBC and the Successful Bidder are hereby authorized and directed
8 to comply with all provisions of the Prevailing APA. AWBC is hereby authorized
9 and directed to assume and assign to the Bank (as recapitalized by the Successful
10 Bidder) the 365 Contracts, except any 365 Contracts not desired by the Successful
11 Bidder according to the procedures set forth in the Sale Motion and approved in the
12 Bidding Procedures Order. The Successful Bidder is not required to assume any of
13 the 365 Contracts.

14 11. AWBC and the Bank have provided adequate assurance of future
15 performance under the 365 Contracts, and the proposed assumption and assignment
16 of the 365 Contracts satisfies the requirements of the Bankruptcy Code. The 365
17 Contracts, upon assumption by AWBC and assignment to the Bank (as recapitalized
18 by the Successful Bidder), shall be deemed valid and binding, in full force and
19 effect in accordance with their terms, subject to the provisions of this Sale Order,
20 and, pursuant to section 365(k) of the Bankruptcy Code, AWBC shall be relieved
21 from any further liability, except as provided herein and in the Prevailing APA.

22 12. Upon assignment of the 365 Contracts to the Bank at or subsequent to
23 the Closing, no default shall exist under any of the 365 Contracts and no
24 counterparty to any such 365 Contract shall be permitted to declare a default by or
25 against the Bank under such assigned contract or otherwise take action against the
Bank as a result of such assignment or AWBC's financial condition, bankruptcy, or

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1 failure to perform any of its obligations under any of the 365 Contracts. Upon entry
2 of this Sale Order and assumption and assignment of the 365 Contracts, AWBC
3 shall be deemed in compliance with all terms and provisions of the assigned 365
4 Contracts.

5 13. AWBC may assume the Tax Sharing Agreement consistent with the
6 prevailing APA and shall promptly transfer to the Bank any amounts of Tax refunds
7 received from any Governmental Authority as required by Section 5.15 of the APA.

8 14. Notwithstanding anything to the contrary in this Sale Order, no
9 365 Contract will be assumed and assigned to the Bank until the Closing.

10 15. Notwithstanding anything herein to the contrary, nothing herein shall
11 in any way affect or diminish any rights of AWBC or any successor thereto
12 (including any Chapter 11 or Chapter 7 trustee) with respect to obligations of the
13 Successful Bidder arising under the Prevailing APA or this Sale Order. This Sale
14 Order shall be binding on AWBC and AWBC's estate (including following any
15 conversion or dismissal of this case), any successor Chapter 7 estate, any confirmed
16 plan of reorganization or liquidation, and any Chapter 7 or Chapter 11 trustees
17 appointed in this case.

18 16. On the Closing Date, each of AWBC's creditors is authorized and
19 directed to execute such documents and take all other actions as may be necessary
20 to release its interests against or in the Shares and the Other Purchased Assets, if
21 any, as such interests may have been recorded or may otherwise exist. If any person
22 or entity that has filed financing statements or other documents or agreements
23 evidencing Encumbrances against or in the Shares and the Other Purchased Assets
24 shall not have delivered to AWBC prior to the Closing Date, in proper form for
25 filing and executed by the appropriate parties, termination statements, instruments
26 of satisfaction, releases of all Encumbrances that the person or entity has with

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1 respect to the Shares and the Other Purchased Assets or otherwise, AWBC is hereby
2 authorized and directed to execute and file such statements, instruments, releases
3 and other documents on behalf of the person or entity with respect to the Shares and
4 the Other Purchased Assets.

5 17. This Sale Order shall be binding upon and shall govern the acts of all
6 entities, including without limitation, all filing agents, filing officers, title agents,
7 title companies, recorders of mortgages, recorders of deeds, registrars of deeds,
8 administrative agencies, governmental departments, secretaries of state, federal,
9 state, and local officials, and all other persons and entities who may be required by
10 operation of law, the duties of their office, or contract, to accept, file, register or
11 otherwise record or release any documents or instruments, or who may be required
12 to report or insure any title or state of title in or to any of the Shares and the Other
13 Purchased Assets. ~~Each and every federal, state and local governmental agency,~~
14 ~~department, or unit is hereby directed to accept any and all documents and~~
15 ~~instruments necessary and appropriate to consummate the transactions contemplated~~
16 ~~by the Prevailing APA.~~

17 18. Except as expressly permitted or otherwise specifically provided for in
18 the Prevailing APA or this Sale Order, the Successful Bidder shall have no liability
19 or responsibility for any liability or other obligation of, or claim against, AWBC
20 arising under or related to the Shares and the Other Purchased Assets and, to the
21 extent allowed by law, the Successful Bidder (and its officers, managers, and
22 members) shall not be liable for any other claims against AWBC or any of their
23 predecessors or affiliates, whether known or unknown as of the Closing Date, now
24 existing or hereafter arising, whether fixed or contingent, with respect to AWBC or
25 any obligations of AWBC arising prior to the Closing Date.
26

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1 19. This Court retains and shall have exclusive jurisdiction to endorse and
2 implement the terms and provisions of the Prevailing APA, any amendments
3 thereto, any waivers and consents thereunder, and each of the agreements executed
4 in connection therewith in all respects, including, but not limited to, retaining
5 jurisdiction to (a) compel delivery of the Shares and the Other Purchased Assets to
6 the Successful Bidder; (b) compel delivery of the Cash Purchase Price or
7 performance of other obligations owed to AWBC; (c) compel the recapitalization of
8 the Bank in accordance with the terms of the Prevailing APA; (d) resolve any
9 disputes arising under or related to the Prevailing APA; and (e) interpret,
10 implement, and enforce the provisions of the Prevailing APA and this Sale Order.

11 20. The transactions contemplated by the Prevailing APA are undertaken
12 by the Successful Bidder in good faith, as that term is used in section 363(m) of the
13 Bankruptcy Code, and accordingly, the reversal or modification on appeal of the
14 authorization provided herein to consummate the Sale shall not affect the validity of
15 the Sale free and clear of all Encumbrances unless such authorization is duly stayed
16 pending such appeal prior to the Closing. The Successful Bidder is a purchaser in
17 good faith of the Shares and the Other Purchased Assets and the Successful Bidder
18 is entitled to all of the protections afforded by section 363(m) of the Bankruptcy
19 Code.

20 21. The terms and provisions of the Prevailing APA and this Sale Order
21 shall be binding in all respects upon, and shall inure to the benefit of, AWBC, its
22 estate, and its creditors, the Successful Bidder and their respective affiliates,
23 successors and permitted assigns, and any affected third parties, notwithstanding
24 any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy
25 Code, as to which trustee(s) such terms and provisions likewise shall be binding.
26

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1 22. The failure specifically to include any particular provisions of the
2 Prevailing APA in this Sale Order shall not diminish or impair the effectiveness of
3 such provisions, and the Prevailing APA is, by this Sale Order, authorized and
4 approved in its entirety.

5 23. Non-substantive changes to the Prevailing APA and any related
6 agreements, documents, or other instruments may be made, including modifications,
7 amendments, or supplements agreed upon by the parties in accordance with the
8 terms thereof, without further order of this Court.

9 24. The Prevailing APA is not in violation of creditors' and equity security
10 interest holders' voting rights.

11 25. All of AWBC's interests in the Shares and the Other Purchased Assets
12 to be acquired by the Successful Bidder under the Prevailing APA shall be, as of the
13 Closing Date and upon the occurrence of the Closing, transferred to and vested in
14 the Successful Bidder. Upon the occurrence of the Closing, this Sale Order shall be
15 considered, and constitute for any and all purposes, a full and complete general
16 assignment, conveyance, and transfer of the Shares and the Other Purchased Assets
17 acquired by the Successful Bidder under the Prevailing APA and/or a bill of sale or
18 assignment transferring good and marketable, indefeasible title, and interest in the
19 Shares and the Other Purchased Assets to the Successful Bidder.

20 *[Remainder of page intentionally left blank]*
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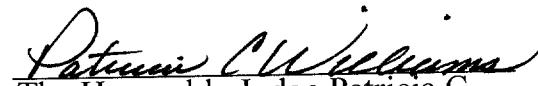
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1 26. Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the
2 effectiveness of this Sale Order shall not be stayed for 14 days after entry on the
3 docket and shall be effective and enforceable immediately upon such entry. The
4 Successful Bidder and AWBC are authorized to consummate the Sale and cause the
5 Closing to occur as promptly as is practicable following the entry of this Sale Order.

6

7 DATED this 9th day of December,
8 2010


The Honorable Judge Patricia C.
Williams

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